IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

FRIDAY, THE 1ST JUNE 2007 / 11TH JYAISHTA 1929

WA.No. 1735 of 2006(D)

AGAINST THE JUDGEMENT IN WPC.28349/2005 Dated 24/03/2006
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APPELLANT: RESPONDENTS
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1. THE CHAIRMAN & MANAGING DIRECTOR,
BSNL, NEW DELHI.

2. THE CHIEF GENERAL MANAGER (TELECOM),
BSNL, NEW DELHI.

3. THE GENERAL MANAGER,
BHARAT SANCHAR NIGAM LTD., KANNUR.

4. THE PRINCIPLE GENERAL MANAGER,
TELECOM DEPARTMENT, BHARAT SANCHAR NIGAM LTD.,
KOTTAYAM.

BY ADV. SRI.MATHEWS K.PHILIP,SC, BSNL

RESPONDENTS: PETITIONER
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1. K.C.GEORGE, S/O. K.A.CHACKO,
TELECOM OFFICER (GROUP), BSNL, BELLIKOTH,
AJANUR P.O., KANHANGAD, RESIDING AT "VIRGENA",
KUSHAL NAGAR, KANHANGAD P.O., HOSDURG TALUK,
KASARGODE DISTRICT.

2. E.MOHANAN, S/O. E.BABU,
TELECOM OFFICER, BSNL, PANATHADY,
BALANTHODE P.O., KASARGODE DISTRICT,
RESIDING AT "THALIVAYAL", KALLISSERY P.O.,
KANNUR-670 562.

3. K.C.ZACHARIAS, S/O. CHACKO,
JUNIOR TELECOM OFFICER, MELUKKAVUMATHU (GROUP),
BSNL, KOTTAYAM DISTRICT, PERMANENT ADDRESS:
KANIAMPARAMBIL, KALAKETTY P.O., KOTTAYAM DISTRICT.

BY ADV. SRI.T.C.GOVINDA SWAMY

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 01/06/2007 ALONG WITH WA 2280/06, ETC., THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.S.Radhakrishnan
&
Antony Dominic, JJ.
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W.A.Nos.1735/06, 2280/06, 2386/06, 2427/06, 5/07, 6/07, 68/07,85/07, 98/07, 189/07, 190/07, 235/07, 262/07, 264/07,280/07,319/07 360/07& 400/07
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Dated this the 1st day of June, 2007.

JUDGMENT

Radhakrishnan,J.

We dispose of all these cases together, since the issue raised in all these cases are same. W.P.(C) No.28349 of 2005 was preferred by the respondents seeking a writ of certiorari to quash Ext.P7 dated 6.9.2005 issued by the Chief General Manager, Office of the Chief General Manager, Kerala Telecommunications, Thiruvananthapuram and also for a declaration that the pay of the petitioners upon promotion as J.T.O. (Junior Telecom Officer) is to be fixed under FR22 (1)(a)(1) as done in Ext.P6 and also for consequential orders. Learned single Judge noticed that since completion of the training in three phases is not a prescribed qualification in the Recruitment Rules, the respondents cannot deny them the fixation benefit under FR22(1(a)(1) in the scale of pay applicable to the post of J.T.O. Learned single Judge after finding so, allowed the writ petition and quashed Ext.P7

order. The Chairman and Managing Director, BSNL and others have come up with these appeals.

2. Counsel for the appellants - respondents submitted that the learned single Judge has not properly appreciated the provisions of the Junior Telecom Officer Recruitment Rules, 1996, which was produced as Annexure I along with the appeal memorandum. Rule 5 (2) says that the candidates selected both against the 50% direct recruitment quota of vacancies and the 50% Departmental promotion/transfer of vacancies shall, before their appointment as Junior Telecommunications Officers have to successfully undergo prescribed training as per the training plan laid down and amended by the Department from time to time. Annexure II is the communication dated 18.10.2002 issued by the Chief General Manager with regard to revision of J.T.O. Training syllabus recruitment year 2002. Along with Annexure II, there is a communication by the BSNL, which states that in addition to the Pre Basic I and Pre Basic II training as applicable to Departmental candidates, the Phase I training has been revised as 10 weeks in training centres and 4 weeks practical training on job in field training. It is stated that on successful completion of 14 weeks training, the trainees will be appointed as J.T.Os. FR22(1)(a)(1) states that where a Government servant holding a post, other than a

tenure post, in a substantive or temporary or officiating capacity is promoted or appointed in a substantive, temporary or officiating capacity, as the case may be subject to the fulfillment of the eligibility conditions. Counsel also submitted that the candidates have completed the training as prescribed in the relevant Recruitment Rules. Counsel for the respondents – writ petitioners submitted that before Ext.P7 communication, the writ petitioners were not given notice. A memo was issued to them without prior notice to re-fix the pay. Counsel also referred to Junior Telecom Recruitment Rules, 2001, which came into effect on 26.11.2001.

3. We are of the view that before re-fixing the pay the affected parties should have been given an opportunity of being heard. This has not been done in this case. In such circumstances, we are inclined to dispose of these Writ Appeals directing the appellants to give an opportunity to the respondents – writ petitioners to file objections, if any, against Ext.P7 communication and to the consequential memos issued to them for refixation of the pay. Writ petitioners shall file their objections before the first appellant within three weeks from today. The first appellant will consider their objections after giving an opportunity of being heard to the representative nominated by the officers and pass appropriate orders

in accordance with law within three months from the date of receipt the objections. Till final decision is taken by the first appellant or the concerned officer, status quo as on today will be maintained.

Judgment of the learned single Judge is therefore set aside and the Writ Appeals are disposed of as above.

K.S.Radhakrishnan,
Judge.

Antony Dominic,
Judge.

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